59-12-402 Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority.

(1)
   (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.
   (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:
      (i) the sale of:
         (A) a motor vehicle;
         (B) an aircraft;
         (C) a watercraft;
         (D) a modular home;
         (E) a manufactured home; or
         (F) a mobile home;
      (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
      (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.
   (c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
   (d) A municipality imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
(2)
   (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).
   (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.
(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:
   (a) pass a resolution approving the tax; and
   (b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).
(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:
   (a) hold the additional resort communities sales tax election during:
      (i) a regular general election; or

      (ii) a municipal general election; and
    (b) publish notice of the election:
      (i) 15 days or more before the day on which the election is held; and
      (ii)
        (A) in a newspaper of general circulation in the municipality; and
        (B) as required in Section 45-1-101.
(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.
(6)
    (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.
    (b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.
(7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

Amended by Chapter 9, 2010 General Session